

CHELSEA B. PAYMENT, OSB #141125
ANDREW D. COIT, OSB #972378
Cohen & Coit, PC
9200 SE Sunnybrook Ave, Suite 430
Clackamas, OR 97015
Ph: 503-231-3419
Fax: 503-231-3420
Chelsea@cohencoit.com
Andrew@cohencoit.com
Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORLAND DIVISION

UNITED STATES OF AMERICA,

vs.

Plaintiff,

STEVEN DOUGLAS ROCKETT,

Defendant.

Case No.: 3:13-CR-00557-SI

DEFENDANT'S TRIAL MEMORANDUM

COMES NOW defendant, STEVEN DOUGLAS ROCKETT, by and through his attorneys, Chelsea B. Payment and Andrew D. Coit, of Cohen & Coit P.C., and submits the following trial memorandum:

STATEMENT OF THE CASE

Steven Rockett is charged with two counts of International Travel and Engaging in Illicit Sexual Conduct with a Minor in violation of 18 U.S.C. § 2423(c) and (e), six counts of Producing of Child Pornography in violation of 18 U.S.C. § 2251(a) and (e), and one count of Possession of Child Pornography in violation of 18 U.S.C. 2252A(a)(5)(B) and (b)(2).

Mr. Rockett was indicted in this case on November 19, 2013. Mr. Rockett stood trial in Washington County Circuit Court for the State of Oregon on February 18, 2015 and was

convicted of numerous offenses relating to sexual abuse of children. State of Oregon vs. Steven Douglas Rockett, Washington County Case Numbers: C131929CR, and C132673CR. These cases are on direct appeal. Mr. Rockett is currently in custody serving a fifty-two (52) year sentence in the Oregon Department of Corrections.

The case is scheduled for a jury trial to begin on May 16, 2016. Defendant anticipates a seven-day trial.

OVERVIEW OF PRIMARY TESTIMONY

Defense expert, Joel Brillhart, C.F.C.E. A copy of Mr. Brillhart's C.V. has been submitted as Defendant's Exhibit 115. Mr. Brillhart examined the digital evidence seized from defendant's residence at the Northwest Regional Computer Forensics Laboratory (NWRCFL). Mr. Brillhart is expected to testify regarding his analysis of defendant's electronic devices. Potential areas of Mr. Brillhart's testimony are outlined in more detail in defendant's Notice of Expert Witnesses and in Defendant's Exhibits 113 and 114, which were submitted under seal.

Defense expert, Wendy Bourg, Ph.D. Dr. Bourg's C.V. has been submitted as Defendant's Exhibit 117. Dr. Bourg examined the forensic interviews conducted by FBI agents in the Philippines. Dr. Bourg is expected to testify about the effect of direct inducements offered to witnesses in exchange for their testimony in this case. Dr. Bourg also examined the local investigation pertaining to defendant. Dr. Bourg testified at length in State of Oregon vs. Steven Rockett, and her testimony has been submitted under seal as Defendant's Exhibit 116. Dr. Bourg will testify in substantially similar fashion.

Erika Cox, is a former Washington County Sheriff's Office detective. Ms. Cox was the lead detective in the state case, until she resigned in Fall of 2014. Ms. Cox took defendant's statement and the statements of some of the government's witnesses. Former Detective Cox is

expected to testify about these statements. Former Detective Cox is also expected to testify about circumstances that occurred during the investigation of this case that eventually lead to her resignation from the Washington County Sheriff's Office. Defendant believes this gave former Detective Cox motive to slant the investigation against defendant, and/or testify favorably for the government. Former Detective Cox testified in State of Oregon vs. Steven Rockett, and her testimony has been submitted under seal as Defendant's Exhibits 102-105. Additionally, the Internal Affairs investigation file pertaining to former Detective Cox's alleged misconduct has been submitted under seal as Defendant's Exhibit 101.

Doug Cook, is a former Washington County Sheriff's Office Detective. Mr. Cook is expected to testify about circumstances that occurred during the investigation of this case that eventually lead to former Detective Cox's resignation. Former Detective Cook testified in State of Oregon vs. Steven Rockett, and his testimony has been submitted as Defendant's Exhibit 106.

Detective Robert Rookhuyzen of the Washington County Sheriff's Office. Detective Rookhuyzen became the lead detective in the state case after former Detective Erika Cox resigned from the Washington County Sheriff's Office. Detective Rookhuyzen is expected to testify about the circumstances of the investigation of defendant that took place in Oregon. Detective Rookhuyzen is also expected to testify about the circumstances of former Detective Cox's resignation.

Sergeant Ryan Spang of the Washington County Sheriff's Office. Sergeant Spang is expected to testify about circumstances that occurred during the investigation of this case that eventually lead to former Detective Cox's resignation. Sergeant Spang testified in State of Oregon vs. Steven Rockett, and his testimony has been submitted as Defendant's Exhibit 107.

Sergeant Kelly Jones of the Washington County Sheriff's Office, professional standards unit. Sergeant Jones conducted the Internal Affairs (IA) investigation of former Detective Erika Cox. Sergeant Jones is expected to testify about the IA investigation of former Detective Cox that occurred during the investigation of this case. Sergeant Jones testified in State of Oregon vs. Steven Rockett, and his testimony has been submitted as Defendant's Exhibit 108. The IA investigation file has been submitted as Defendant's Exhibit 101.

Undersheriff Jeff Mori of the Washington County Sheriff's Office. Undersheriff Mori is expected to testify about the concerns he had regarding former Detective Erika Cox and the circumstances that occurred during the investigation of this case that eventually lead to former Detective Cox's resignation. Undersheriff Mori testified in State of Oregon vs. Steven Rockett, and his testimony has been submitted as Defendant's Exhibit 109.

Detective John Shipley of the Washington County Sheriff's Office. Detective Shipley was initially the lead investigator in the state case, and again became the lead investigator during the state trial after Detective Rookhuyzen went on vacation. Detective Shipley is expected to testify about the investigation into the allegations against defendant pertaining to alleged victim, N.S.

Christine Rockett is defendant's ex-wife. Ms. Rockett is expected to testify about defendant's and her travels to the Philippines. Ms. Rockett is also expected to testify that the FBI has been placing tremendous pressure on individuals to testify against defendant.

Verne Hoyer conducted private investigation on behalf of defendant in Oregon. Mr. Hoyer may be called as a witness and is expected to testify about the investigation he conducted in Oregon.

Dave Panter conducted private investigation on behalf of defendant in the Philippines.

Mr. Panter may be called as a witness and is expected to testify about the investigation he conducted in the Philippines.

PROPOSED JURY INSTRUCTIONS

Defendant filed in a separate pleading defendant's proposed jury instructions.

MOTIONS IN LIMINE

Defendant has filed in four separate pleadings, the following Motions *in Limine*:

1. Defendant's Motion *in Limine* to Exclude Evidence Recovered from Unallocated Space ("Cache"), Deleted Trash, and RAR Files;
2. Defendant's Motion *in Limine* to Exclude Defendant's Prior Convictions and Prior Bad Act Evidence;
3. Defendant's Motion *in Limine* to Admit Evidence of Law Enforcement Misconduct; and
4. Defendant's Motion *in Limine* to Limit Materials Exhibited to the Jury.

JUDGMENT OF ACQUITTAL

Defendant anticipates the need to move for judgment of acquittal under Rule 29 of the Federal Rules of Criminal Procedure at the close of the government's case, at the conclusion of evidence and/or after the verdict is rendered. Defendant anticipates many, if not all of the images offered in its case in chief will not depict minors engaged in sexually explicit conduct. Under defendant's current understanding of the evidence, the only possible manner these materials could fit into the statutory definition of "sexually explicit conduct" would be under 18 U.S.C. 2255(2)(E) ("lascivious exhibition of the genital or pubic area of any person").

STIPULATIONS

Defendant and the government have stipulated to admissibility of statements made by defendant to law enforcement on or about August 23, 2013 as provided in the Stipulation Regarding Admissibility of Defendant's Statements, ECF 49.

CONCLUSION

Defendant reserves the right to call additional witnesses, file additional motions *in limine* and jury instructions based on the government's trial filings, evidence adduced at trial, and additional legal or factual issues that may arise.

RESPECTFULLY SUBMITTED this 2nd day of May, 2016.

/s/ CHELSEA B. PAYMENT
Chelsea B. Payment, OSB #141125
Of Attorneys for Defendant

Certificate of Service

I hereby certify that on the above-mentioned date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Paul T. Maloney
Special Prosecutor U.S. Attorney's Office
150 N 1st Ave, Suite 300 MS 40
Hillsboro, OR 97124
paul_maloney@co.washington.or.us

Gary Sussman
US Attorney's Office
District of Oregon
1000 SW 3rd Ave., Ste. 600
Portland, OR 97204
Gary.Sussman@usdoj.gov

/s/ CHELSEA B. PAYMENT
Chelsea B. Payment, OSB #141125
Of Attorneys for Defendant
Cohen & Coit, PC
9200 SE Sunnybrook Ave, Suite 430
Clackamas, OR 97015
Ph: 503-231-3419
Fax: 503-231-3420
chelsea@cohencoit.com